IN THE HIGH COURT OF BOMBAY AT GOA.

**WRIT PETITION NO. 340/2005.**

Shree Ambay Forgings Pvt. Ltd.,
having its registered Head Office at
505-A, 5th Floor, Dempo Trade Centre,
Patto, Panaji, Goa – 403 001. ..... Petitioner.

V/s.

1. Union of India,
(through the Secretary,
Ministry of Finance,
Department of Revenue),
North Block,
New Delhi – 100 001.

2. Commissioner of Central Excise &
Customs,
ICE House, EDC Complex,
Patto Plaza, Panaji – 403 001.

3. Deputy Commissioner of Central
Excise, (Division-I),
Plot No.6, ICE House, EDC
Complex, Patto Plaza,
Panaji – 403 001.

4. Superintendent of Central Excise
Kundaim Range, 5th Floor,
ICE House, EDC Complex,
Patto Plaza, Panaji – 403 001.

5. The Customs, Excise & Service
Tax Appellate Tribunal WZB,
Jai Centre, 3rd, 4th & 5th Floor,
34, P.D'Mello Road, Poona Street,
Masjid Bunder (E),
Mumbai 400 009. ..... Respondents.

Mr. H. R. Maingi, Advocate for the petitioner.

Mr. Joseph Vaz, Central Government Standing Counsel for the respondents.

CORAM : R.M. LODHA &
N.A. BRITTO, JJ.

DATE : 3RD OCTOBER, 2005.

ORAL JUDGMENT (Per R.M. LODHA J.)

Heard. Rule, returnable forthwith.

2. Mr. Joseph Vaz waives service for the respondents. By consent, Rule is heard finally at this stage.

3. The appeal preferred by the present petitioner before the Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench at Mumbai came to be rejected against the Order-in-Original dated 23.2.2005 passed by the Commissioner of Central Excise and Customs on the ground that the petitioner was not an aggrieved party as the Order dated 23.2.2005 was passed against M/s. Gaurav Strips.

4. It is not in dispute before us that the present

petitioner has purchased the unit earlier owned by M/s. Gaurav Strips and that the Superintendent of Central Excise vide communication dated 19.03.2005 asked the present petitioner to pay the demand of duty levied against M/s. Gaurav Strips.

5. As a matter of fact, the learned Central Government Standing conceded and in our view fairly that he was not in a position to defend the Order dated 18/7/2005 passed by the Customs, Excise & Service Tax Appellate Tribunal. He would submit that the matter could be remanded to the Tribunal for consideration of the appeal and the applications in accordance with law.

6. We, accordingly, allow the writ petition in part. The Order dated 18.7.2005 passed by the Customs, Excise & Service Tax Appellate Tribunal is quashed and set aside. The Appeal No.E/1760/05 Mum along with the applications being E/MA(Ors)1481/05 Mum and E/S/1432/05 Mum are restored to the file of the Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench at Mumbai for fresh hearing and disposal in accordance with law. The petitioner shall appear

before the Tribunal on 17th October, 2005 to enable the Tribunal to fix appropriate date of hearing of the aforesaid appeal and the applications made thereunder .

No costs.

R.M. LODHA, J.

N. A. BRITTO, J.

ssm.